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CONCORD, N.H.

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June 5

Governor Sherman Adams
State House

Dear Governor Adams:

You have inquired whether a certain individual is eligible for appointment to the Commission of Pharmacy.

It appears that the individual in question is, and has been for over ten years, a registered pharmacist in this state. At the present time his only connection with the business of pharmacy consists of his owning stock in a large drug corporation which owns and operates a number of retail drug stores. He holds no office in the corporations, nor does he participate in the management, operation or control of any of the retail outlets.

In my opinion, he is not eligible for membership on the Commission of Pharmacy. The governing statute (R. L. c. 256, s. 3) requires that each member of the Commission shall have been a registered pharmacist in this state for at least ten years, and, in addition, that each be, at the time of his appointment, engaged in conducting a retail pharmacy.

The word "conduct" has been on several occasions considered by the courts in several jurisdictions. For example, the word has been said to be "synonymous with to manage, to direct, to carry on, to do business". Wichita Co. v. Yale, 194 Mo. App. 60. Again, it has been said to stress "the idea of immediate supervision, of personal leadership; it means to lead, to have direction of, to manage, to direct, to carry on". State v. Mahfouz 181 La. 23.

It is clear that the individual in question is not "conducting" a retail pharmacy within the meaning of the statute cited and the definitions set forth. It is, therefore, my opinion that he is not eligible for membership on the Commission.

Respectfully yours,

Gordon M. Tiffany
Attorney General

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